

'Federal Court'
at
'District Court of the united States
for New Jersey'

i, a man;
prosecutor

State of New Jersey; Man with NJ State Trooper
ID 7789
Wrongdoer(s)

2:16-cv-08870-JMV-JBC

Notice: Testimony

(verified)

notice: testimony

the *Rogers Court* presents notice:

i, a man, will testify in open court that

- Firstly:** 'James Porch' nor the 'State of New Jersey' have any vested interest in my property.
- Secondly:** No warrant was presented at the time of the seizure. (see exhibit A and B)
- Thirdly:** i, a man, was denied due process.
- Fourthly:** Jurisdiction over i by the 'wrongdoers' has not been proven to trespass upon my property, body, and rights. (see exhibit C)
- Fifthly:** i have caused no harm, there is no injured party, i did no wrong, i broke no law. (see exhibit B)

I, say here, and will verify in open court, that all herein be true;

Thomas T Rogers

Date: March 21, 2017



Exhibit A

The U.S. Bill of Rights

The Preamble to The Bill of Rights

Congress of the United States

begun and held at the City of New-York, on

Wednesday the fourth of March, one thousand seven hundred and eighty nine.

THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, ~~in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added. And as extending the ground of public confidence in the Government,~~ will best ensure the beneficent ends of its institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.

ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Note: The following text is a transcription of the first ten amendments to the Constitution in their original form. These amendments were ratified December 15, 1791, and form what is known as the "Bill of Rights."

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

~~The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.~~

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, ~~nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.~~

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, ~~nor cruel and unusual punishments inflicted.~~

Amendment IX

~~The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.~~

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Exhibit B

NEW JERSEY STATE CONSTITUTION 1947 (UPDATED THROUGH AMENDMENTS ADOPTED IN NOVEMBER, 2016)

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A Constitution agreed upon by the delegates of the people of New Jersey, in Convention, begun at Rutgers University, the State University of New Jersey, in New Brunswick, on the twelfth day of June, and continued to the tenth day of September, in the year of our Lord one thousand nine hundred and forty-seven.

We, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, do ordain and establish this Constitution.

ARTICLE I RIGHTS AND PRIVILEGES

All persons are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying and disposing of the fruit and increase of the land and property, and of possessing and protecting property, and of pursuing happiness and safety.

Power is inherent in the people. Government is instituted for their safety and happiness, and all the powers of the government are derived from the people. All officers of the government are their servants and agents, and are responsible to them for the exercise of their powers.

b. The people reserve unto themselves the power to recall, after at least one year of service, any elected official in this State or representing this State in the United States Congress. The Legislature shall enact laws to provide for such recall elections. Any such laws shall include a provision that a recall election shall be held upon petition of at least 25% of the registered voters in the electoral district of the official sought to be recalled. If legislation to implement this constitutional amendment is not enacted within one year of the adoption of the amendment, the Secretary of State shall, by regulation, implement the constitutional amendment, except that regulations adopted by the Secretary of State shall be superseded by any subsequent legislation consistent with this constitutional amendment governing recall elections. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

3. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretense whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes, or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right or has deliberately and voluntarily engaged to perform.

4. There shall be no establishment of one religious sect in preference to another; no religious or racial test shall be required as a qualification for any office or public trust.

5. No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin.

6. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the amount of damages.

The right of the people to be secure in their persons, houses, papers, and effects, /

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against unreasonable searches and seizures, shall not be violated, and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

8. No person shall be held to answer for a criminal offense, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases now prosecuted without indictment, or arising in the army or navy or in the militia, when in actual service in time of war or public danger.

9. ~~The right of trial by jury shall remain inviolate,~~ but the Legislature may authorize the trial of civil causes by a jury of six persons. The Legislature may provide that in any civil cause a verdict may be rendered by not less than five-sixths of the jury. The Legislature may authorize the trial of the issue of mental incompetency without a jury.

10. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defense.

11. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be eligible for pretrial release. Pretrial release may be denied to a person if the court finds that no amount of monetary bail, non-monetary conditions of pretrial release, or combination of monetary bail and non-monetary conditions would reasonably assure the person's appearance in court when required, or protect the safety of any other person or the community, or prevent the person from obstructing or attempting to obstruct the criminal justice process. It shall be lawful for the Legislature to establish by law procedures, terms, and conditions applicable to pretrial release and the denial thereof authorized under this provision.

12. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted. It shall not be cruel and unusual punishment to impose the death penalty on a person convicted of purposely or knowingly causing death or purposely or knowingly causing serious bodily injury resulting in death who committed the homicidal act by his own conduct or who as an accomplice procured the commission of the offense by payment or promise of payment of anything of pecuniary value.

13. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in cases of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

~~14. The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it.~~

15. The military shall be in strict subordination to the civil power.

16. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, except in a manner prescribed by law.

17. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

18. The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

19. Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing.

~~20. Private property shall not be taken for public use without just compensation. Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners.~~

~~21. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.~~

Exhibit C

SUBJECT MATTER JURISDICTION:

'Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction lies with theasserter. The court is only to rule on the sufficiency of the proof tendered.' See, McNutt v. General Motors Acceptance Corp, 298 U.S. 178 (1936). The origins of this doctrine of law may be found in "MAXFIELD v. LEVY, 4 U.S. 330 (1797), 4 U.S. 330 (Dall.) 2 Dall. 381 2 U.S. 381 1 L.Ed. 424;

When filing a counterclaim does that mean their claim is no longer active?

Yes. They temporarily lose jurisdiction because in the first cause of action the question of jurisdiction is the issue. They must prove they have jurisdiction before they may proceed.

"However late this objection has been made, or may be made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause; as any movement is necessarily the exercise of jurisdiction. Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them; the question is, whether on the case before a court, their action is judicial or extra-judicial; with or without the authority of law, to render a judgment or decree upon the rights of the litigant parties. If the law confers the power to render a judgment or decree, then the court has jurisdiction; what shall be adjudged or decreed between the parties, and with which is the right of the case, is judicial action, by hearing and determining it. 6 Peters, 709; 4 Russell, 415; 3 Peters, 203-7"; Cited by STATE OF RHODE ISLAND v. COM. OF MASSACHUSETTS, 37 U.S. 657, 718 (1838)

'They proceed without proving their jurisdiction to the counterclaiming court, then the proceedings from that point onward are void.'

"Where a Court has jurisdiction, it has a right to decide every question which occurs in the cause; and whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other Court. ~~But if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal, in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.~~" Elliott v Peirsol, 1 Pet. 328, 340, 26 U.S. 328, 340, 7 L.Ed. 164 (1828) .

However, they are law breakers, and they typically attempt to proceed anyway. So, sometimes you have to deal with them with a counterclaim, writ of error, or contempt.

~~*"No officer can acquire jurisdiction by deciding he has it. The officer, whether judicial or ministerial, decides at his own peril."*~~ Middleton v. Low (1866), 30 C. 596, citing Prosser v. Secor (1849), 5 Barb.(N.Y) 607, 608.

"But where the question upon which the jurisdiction depends is one of law purely the jurisdiction over the subject matter is always open to collateral inquiry ..." Grannis v. Superior Court, 146 Cal. 245 [79 P. 891, 106 Am.St.Rep. 23]

QUALIBET JURISDICTIO CANCELLOS SUOS HABET. Jenk. Cent. 137.
"Every jurisdiction has its own bounds". subject-matter jurisdiction is determined from the pleadings. Simpson v. State, 310 Ark. 493, 837 S.W.2d 475 (1992).

"Jurisdiction of the person and of the subject matter is not alone conclusive [and] the jurisdiction of the court to make or render the order or judgment" depends upon due observance of the constitutional rights of the accused. 25 Am.Jur., Habeas Corpus, sec. 27, p. 161. See also Palmer v. Ashe, [342 U.S. 134, 72 S.Ct. 191, 96 L.Ed. 154].

"Jurisdiction cannot be assumed by a district court nor conferred by agreement of parties, but it is incumbent upon plaintiff to allege in clear terms, the necessary facts showing jurisdiction which must be proved by convincing evidence." Harris v. American Legion, 162 F. Supp. 700.
[See also McNutt v. General Motors Acceptance, 56 S. Ct. 780.] [Italics added].

"Proceedings in a court are legally void where there is an absence of jurisdiction." Scott v. McNeal 154 US 34; Re: Bonner, 151 US 242.;

"Once challenged, jurisdiction cannot be 'assumed' it must be proved to exist".
Stuck v Medical Eaminers, 94 Ca.2d 751, 211 P. 2s 389

"Jurisdiction once challenged cannot be assumed and must be decided".
Main v. Thiboutot, 100 S.Ct. 2502

"No sanction can be imposed absent proof of jurisdiction".
Stanard v. Olesen, 74 S. Ct. 768

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings". Hagans v. Lavine, 415 U.S. 533

"If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed". Louisville Rail Road v. Motley, 211 U.S. 149, 29 S.Ct. 42

SEVEN ELEMENTS OF JURISDICTION:

There are seven elements of jurisdiction and every element **MUST** be met in order for the court to proceed.

1. The accused must be properly identified, identified in such a fashion there is no room for mistaken identity. The individual must be singled out from all others; otherwise, anyone could be subject to arrest and trial without benefit of "wrong party" defense. Almost always, the means of identification is a person's proper name, **BUT ANY MEANS OF IDENTIFICATION IS EQUALLY VALID IF SAID**

MEANS DIFFERENTIATES THE ACCUSED WITHOUT DOUBT. (There is no constitutionally valid requirement you must identify yourself, see 4th Amendment; also see, Brown vs. Texas, 443 US 47 and Kolender v. Lawson 461 US 352.)

2. The statute of offense must be identified by its proper or common name. A number is insufficient. Today, a citizen may stand in jeopardy of criminal sanctions for alleged violation of statutes, regulations, or even low-level bureaucratic orders (example: Colorado National Monument Superintendent's Orders regarding an unleashed dog or a dog defecating on a trail). If a number were to be deemed sufficient, government could bring new and different charges at any time by alleging clerical error. For any act to be triable as an offense, it must be declared to be a crime. Charges must negate any exception forming part of the statutory definition of an offense, by affirmative non-applicability. In other words, any charge must affirmatively negate any exception found in the law.

3. The acts of alleged offense must be described in non-prejudicial language and detail so as to enable a person of average intelligence to understand nature of charge (to enable preparation of defense); the actual act or acts constituting the offense complained of. The charge must not be described by parroting the statute; not by the language of same. The naming of the acts of the offense describes a specific offense whereas the verbiage of a statute describes only a general class of offense. Facts must be stated. Conclusions cannot be considered in the determination of probable cause.

4. The accuser must be named. He/she may be an officer or a third party, but some positively identifiable person (human being) must accuse; some certain person must take responsibility for the making of the accusation, not an agency or an institution. This is the only valid means by which a citizen may begin to face his accuser. ~~Also, the injured party (corpus delicti) must make the accusation.~~ Hearsay evidence may not be provided. Anyone else testifying that they heard that another party was injured does not qualify as direct evidence.

5. The accusation must be made under penalty of perjury. If perjury cannot reach the accuser, there is no accusation. Otherwise, anyone may accuse another falsely without risk.

6. To comply with the five elements above, that is for the accusation to be valid, the accused must be accorded due process. Accuser must have complied with law, procedure and form in bringing the charge. This includes court-determined probable cause, summons and notice procedure. If lawful process may be abrogated in placing a citizen in jeopardy, then any means may be utilized to deprive a man of his freedom, and all dissent may be stifled by utilization of detective process.

"The essential elements of due process are notice and an opportunity to defend."
Simon v. Craft, 182 US 427.

"One is not entitled to protection unless he has reasonable cause to apprehend danger from a direct answer. The mere assertion of a privilege does not immunize him; the court must determine whether his refusal is justified, and may require that he is mistaken in his refusal." Hoffman v. United States, 341 U.S. 479 (1951)

7. The court must be one of competent jurisdiction. To have valid process, the tribunal must be a creature of its constitution, in accord with the law of its creation, i.e., Article III judge.

Lacking any of the seven elements or portions thereof, (unless waived, intentionally or unintentionally) all designed to ensure against further prosecution (double jeopardy); it is the defendant's duty to inform the court of facts alleged for determination of sufficiency to support conviction, should one be obtained.

Otherwise, there is no lawful notice, and charge must be dismissed for failure to state an offense. Without lawful notice, there is no personal jurisdiction and all proceedings prior to filing of a proper trial document in compliance with the seven elements is void. A lawful act is always legal but many legal acts by government are often unlawful. Most bureaucrats lack elementary knowledge and incentive to

comply with the mandates of constitutional due process. They will make mistakes. Numbers beyond count have been convicted without benefit of governmental adherence to these seven elements. Today, informations are being filed and prosecuted by "accepted practice" rather than due process of law.

"Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction lies with the assertor. The court is only to rule on the sufficiency of the proof tendered." See, McNutt v. General Motors Acceptance Corp, 298 U.S. 178 (1936). The origins of this doctrine of law may be found in MAXFIELD v. LEVY, 4 U.S. 330 (1797), 4 U.S. 330 (Dall.) 2 Dall. 381 2 U.S. 381 1 L.Ed. 424

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